

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 39 – SB 45

March 11, 2015

SUMMARY OF ORIGINAL BILL: Prohibits the retail sale of products containing dextromethorphan to minors, unless the minor is emancipated from his/her parents. The prohibition will not apply to products obtained with a valid prescription. Any violation is a Class B misdemeanor punishable by fine only with a minimum fine of \$100 for a first offense and \$500 for a second or subsequent offense.

Minors, unless emancipated, are prohibited from purchasing products containing dextromethorphan. Any violation is prosecuted as a delinquent act. The provisions of the bill will preempt any local ordinance regulating the retail sale of products containing dextromethorphan.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (003705): Makes the offense punishable by civil penalty only, rather than as a Class B misdemeanor. The penalty shall be no more than \$100 for a first violation and no more than \$500 for a second or subsequent violation.

Requires employers to provide training to its employees, representatives, and agents to enable them to identify products containing dextromethorphan.

For purposes of the prohibition against minors buying products with dextromethorphan, requires an intent to use the product in a manner inconsistent with the recommended dosage and manner of use contained on the container.

Adds subsection that exempts healthcare and mental health facilities from the application of the bill.

Reduces, from 35 to 30, the age at which a seller has to reasonably believe the purchaser to be to avoid asking for identification.

Extends the effective date for six months to January 1, 2016.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

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Assumptions for the bill as amended:

- The bill creates an offense punishable by fine only. The bill will not increase incarceration costs to local government.
- No reliable data exists to reasonably estimate the number of cases that the bill will create. Staff assumes the number of cases will not be significant.
- The Department of Children's Services (DCS) reports that the delinquent act added by the proposed legislation will not increase the likelihood of such children coming into DCS' custody based on the presumption that minors buying dextromethorphan products for abusive purposes likely have a preexisting drug problem.
- The Administrative Office of the Courts, the District Attorneys General Conference, and the District Public Defenders Conference confirm that the bill will likely have minimal impact on their operations, and would not require additional appropriations. The bill may produce a small number of cases in the court system, which could result in additional state and local expenditures for processing and additional state and local revenue from fees, taxes and costs collected. Any increase in expenditures and revenue is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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